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CHARLES ELMORE

Supreme Court of the United States

October Term, 1932.
No. 374.

THE PEOPLE OF THE STATE OF NEW YORK,
Petitioners-Appellants,
against
MARK M. MACLAY and CHARLES E. McWILLIAMS,
Receivers of McWILLIAMS BROS., INC., and
UNITED STATES OF AMERICA,
Respondents-Appellees.

MOTION TO ADVANCE

JOHN J. BENNETT, JR.,
Attorney General of the State of New York,
Capitol, Albany, N. Y.

CHARLES A. SCHNEIDER,
ROBERT P. BEYER,
Deputy Assistants Attorney General,
Of Counsel for Petitioners-Appellants,
80 Centre Street,
New York City, N. Y.

BATAVIA TIMES, LAW PRINTERS,
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Notice.

To

KOBBE, THATCHER, FREDERICK & HOAR,
Counsel for Appellees-Receivers,
128 Broadway, New York City, N. Y.

To

HON. THOMAS D. THATCHER,
Solicitor General of the United States
Attorney for Appellee, United States of America,
Washington, D. C.

SIRS:

PLEASE TAKE NOTICE that on the 19th day of December, 1932, or as soon thereafter as counsel can be heard, the within motion to advance will be submitted to the Supreme Court of the United States in the City of Washington, District of Columbia.

Printed copy of the motion is served upon you herewith.

CHARLES A. SCHNEIDER,
ROBERT P. BEYER,
Counsel for Appellants,
80 Center Street,
Borough of Manhattan,
City of New York, N. Y.

Service accepted this 18th day of November, 1932.

KOBBE, THATCHER, FREDERICK & HOAR,
Counsel for Appellees-Receivers.

THOMAS D. THATCHER,
Solicitor General of the United States,
Counsel for Appellee, United States of America.

Motion to Advance.

SUPREME COURT OF THE UNITED STATES

October Term, A. D. 1932.
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Respondents-Appellees.

Now comes The People of the State of New York, petitioners-appellants, and move this Honorable Court that

this cause be advanced for early hearing and placed upon the summary docket of this Court, and in support of this motion, makes the following brief statement of the matter involved and the reasons relied upon for the advancement:

1. That this matter comes before this Court upon the allowance of an application by the People of the State of New York for a writ of certiorari to review the determination of the United States Circuit Court of Appeals for the Second Circuit holding that where assets in the hands of a receiver are insufficient to pay tax claims due both to the Federal and a State Government in full, the claims of the Federal Government must be paid in full before any payment to the State.

2. In granting the petition for certiorari, this Court has consented to pass upon and determine the following questions:

(a) Has Congress the constitutional right to pass any law prejudicing or interfering with the sovereign right of priority possessed by a state.

(b) Can any statutory right of preference possessed by the Federal Government be equal to or superior to the sovereign right of preference possessed by a state.

(c) Determining the relative status of Federal and State Government in the payment of tax claims from an insolvent estate.

3. That the early determination of the questions involved in this case is of paramount public importance in the administration of the tax system of not only the Federal Government but those of the various states, and to final-

ly settle a conflict which for many years has existed between the United States Government and the several states.

4. A more detailed statement of the case is contained in the petition of petitioners-appellants on file in this cause and on which this Court has issued a writ of certiorari.

5. That this is not a case which will require any extended argument, as the facts are conceded and simple in nature, and the argument will be confined to the law to be applied in the correct determination of this case.

6. If this Honorable Court will place this cause upon the summary docket for hearing, the petitioners submit with confidence that this Court will reverse the Circuit Court of Appeals for the Second Circuit, and reaffirm and uphold the states in their reserved sovereign prerogative right inherited from the British Crown.

WHEREFORE, People of the State of New York, petitioners-appellants, pray that the cause be advanced on the calendar and assigned for hearing at an early date.

Respectfully submitted,

PEOPLE OF THE STATE OF NEW YORK,
Petitioners-Appellants.

CHARLES Q. SCHNEIDER,
ROBERT P. BEYER,
Counsel for Petitioners.